

APPLICANT:
Thomas L. Fidler, Jr.

REQUEST: A variance to permit a shed
within the 100 foot agricultural setback in
the Rural Residential District

HEARING DATE: August 2, 2006

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5549

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Thomas L. Fidler, Jr.

LOCATION: 2428 Maxa Meadows Lane, Forest Hill
Tax Map: 33 / Grid: 3E / Parcel: 461 / Lot: 43
Third (3rd) Election District

ZONING: RR / Rural Residential

REQUEST: A variance, pursuant to Section 267-46.1(B)(5)(b) of the Harford County Code to permit a shed to be located in the 100 foot agricultural setback in the RR District.

TESTIMONY AND EVIDENCE OF RECORD:

The Applicant, Thomas L. Fidler, Jr., described his property as an approximately 2 acre lot located on Maxa Meadows Lane, Forest Hill, Maryland, and improved by a two-story, single family residential dwelling, a two-car garage, in-ground swimming pool, wooden play facility, and a framed shed located to the right rear corner of the lot.

Mr. Fidler indicated that in the year 2003 he had received a variance to locate his pool and outside stairwell, both of which would have otherwise violated applicable setbacks.

An existing shed is located at the corner of the subject property, and has dimensions of approximately 10 feet by 14 feet. The shed is located wholly within a 100 foot agricultural setback. So as not to be required to remove the shed, Mr. Fidler requests this variance.

The Applicant has received approval from his homeowners association. He believes that the shed, architecturally, conforms in appearance to his existing home. The property behind the shed is generally wooded, and the shed itself is located about 20 to 21 feet from that rear property line. Because of a change in elevation Mr. Fidler believes that none of his neighbors are able to see the shed and, in any event, it is nonintrusive and is not unsightly.

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Because of the very significant setbacks which surround Mr. Fidler's home he does not believe any other location exists on the property in which the shed could be located which would not impact a setback. Mr. Fidler relies on Attachment 3 to the Staff Report which is a plat of the subject property. This plat shows 100 foot agricultural setbacks which encumber large portions of his property.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune is of the opinion that the subject property is unique. It was the subject of a previous Board of Appeals Case (No. 2448) for the location of an in-ground pool partially within the setback. That decision also found the property to be unique.

Mr. McClune stated that three sides of the property are encumbered by 100 foot agricultural use setback. Most typically, only one side of a building parcel would be encumbered by such a setback. This lot is unusual in that it is encumbered on three sides by such setbacks. Accordingly, the actual buildable space on the subject property in which a shed, or any other structure, could be located is severely, and uniquely, limited.

Mr. McClune further stated that the shed is similar in type and construction to other sheds found throughout the neighborhood and area. He finds no adverse impact if the variance were granted.

Furthermore, the Department recommends no screening around the shed. The area surrounding the shed is heavily screened by existing vegetation, and there is no need for additional screening.

There was no evidence or testimony given in opposition.

APPLICABLE LAW:

Section 267-46.1(B)(5)(b) of the Harford County Code provides:

“(b) A minimum one hundred (100) foot setback shall be established along the entire developed property adjacent to an active farm to protect that farming operation from the residential development. This setback may be reduced to fifty (50) feet from the edge of the developed property boundary if the area within the fifty (50) feet contains existing forest and that forest is retained and designated as an undisturbed forest buffer area, and if necessary, landscaping is provided to screen and protect that development from the adjacent farming operation.”

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Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

(2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.

C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicant finds himself, for reasons not of his own making, in possession of a building lot, which is attractively improved by a single family home and in-ground pool but which is, nevertheless extensively impacted on three of its sides by a 100 foot agricultural use setback. This is a relatively unusual setback in Harford County, one which is much deeper than is typically found in residential subdivisions. As explained by Mr. McClune, in most instances the 100 foot agricultural setback effects only one side of a lot. Unusually, the Applicant's property is affected on three sides by the 100 foot agricultural use setback. Needless to say, the setbacks seriously constrain his use of the 1.9961 acre parcel.

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The Applicant has located a shed to the rear, northwest corner of his parcel. His shed is one very typical of others throughout the subdivision and throughout Harford County. According to the Applicant, and photos in the file, it is generally compatible in appearance and style with the home on the property. The Applicant argues that because of the constraints represented by the setbacks, it would be virtually impossible for him to locate the shed in any place other than within the setback.

A review of the plat shows the Applicant's argument to be correct. The subject property obviously exhibits characteristics unusual for a similarly situated property in that it is extensively impacted by the existence of three 100 foot agricultural use setbacks. This unusual features creates a practical difficulty to the Applicant in that he cannot locate an accessory structure similar in size and style to others throughout the neighborhood and Harford County on his property without the variance requested. It is found that the relief requested is the minimum necessary to alleviate the hardship and it would have no adverse impact, indeed no impact whatsoever, upon any adjoining property owner.

CONCLUSION:

For the above reasons it is recommended the requested variance be granted, subject to the Applicant receiving all necessary permits.

Date: September 12, 2006

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 10, 2006.